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MT LEGISLATIVE HISTORY

Chapter 526 1987

Bill (H) 806 S _____ Original bill & hist. ___C

H. Committee on Business & Labor		S. Committee on Business & Industry	
Hearing Date(s) FEB 19	✓C	Hearing Date(s) MAR 9	✓C
_____	___C	MAR 10	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out FEB 19	✓C	MAR 10	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Form CS-32
Rev. 1985

STATUS SHEET

50th LEGISLATIVE SESSION

BUSINESS AND LABOR COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURR IN AS AMENDE DATE
801	2/18/87	2/19/87	tabled 2/19/87								
802	2/18/87	2/19/87	tabled 2/19/87								
803	2/18/87	2/19/87	2/19/87			2/19/87					
806	2/18/87	2/19/87	2/19/87	2/19/87							
810	2/19/87	2/20/87	2/24/87			2/24/87					
817	3/18/87	2/19/87	2/19/87			2/19/87					
823	2/19/87	2/20/87	2/20/87	2/20/87							
828	2/19/87	2/20/87	tabled 2/20/87								
832	3/9/87	3/16/87	tabled 3/19/87								
847	2/23/87	2/24/87	tabled 2/24/87								
853	3/3/87	3/19/87	tabled 3/20/87								
854	3/3/87	3/19/87	3/20/87	3/20/87							
855	3/3/87	3/19/87	3/20/87	3/20/87							
856	3/3/87	3/19/87	tabled 3/20/87								

HOUSE BILL NO. 806

INTRODUCED BY PAVLOVICH

BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR

IN THE HOUSE

FEBRUARY 17, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
FEBRUARY 19, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 20, 1987	PRINTING REPORT.
FEBRUARY 21, 1987	SECOND READING, DO PASS.
FEBRUARY 23, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 98; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
MARCH 11, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 14, 1987	ON MOTION, CONSIDERATION PASSED UNTIL THE 59TH LEGISLATIVE DAY.
MARCH 17, 1987	ON MOTION, TAKEN FROM SECOND READING AND REREFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1987	SECOND READING, CONCURRED IN.

MARCH 30, 1987	ON MOTION, RULES SUSPENDED AND BILL PLACED ON THIRD READING THIS DAY.
	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.
IN THE HOUSE	
APRIL 8, 1987	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 9, 1987	THIRD READING, AMENDMENTS CONCURRED IN.
	SENT TO ENROLLING.

INTRODUCED BY Harper BILL NO. 806

BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO THE MONTANA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ACT; AMENDING SECTIONS 33-10-202, 33-10-204, 33-10-219, 33-10-220, 33-10-224, 33-10-227, AND 33-10-230, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-10-202, MCA, is amended to read:

"33-10-202. Definitions. As used in this part, the following definitions apply:

(1) "Account" means ~~either~~ any of the three accounts created under 33-10-203.

(2) "Association" means the Montana life and health insurance guaranty association created under 33-10-203.

(3) "Contractual obligation" means any obligation under covered policies.

(4) "Covered policy" means any policy or contract held by a resident of this state within the scope of this part under subsections (4) and (5) of 33-10-201.

(5) "Impaired insurer" means:

(a) an insurer which after July 1, 1974, becomes insolvent and is placed under a final order of liquidation, rehabilitation, or supervision by a court of competent jurisdiction; or

(b) an insurer deemed by the commissioner after July 1, 1974, to be unable or potentially unable to fulfill its contractual obligations.

(6) "Member insurer" means any person authorized to transact in this state any kind of insurance to which this part applies under subsections (4) and (5) of 33-10-201.

(7) "Person" means any individual, corporation, partnership, association, or voluntary organization.

(8) "Premiums" means direct gross insurance premiums and annuity considerations written on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers. As used in 33-10-227, "premiums" are those for the calendar year preceding the determination of impairment.

(9) "Resident" means any person who resides in this state at the time the impairment is determined and to whom contractual obligations are owed."

Section 2. Section 33-10-204, MCA, is amended to read:

"33-10-204. Board of directors -- commissioner

INTRODUCED BILL
HB-806

approval -- compensation. (1) The board of directors of the association shall consist of five members serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term in the manner described in the plan of operation. In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(2) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors, ~~but~~ and such members of the board ~~shall not otherwise be compensated by the association for their services~~ who are not full-time employees of an insurer may receive reasonable compensation for their services as board members upon annual approval by the membership."

Section 3. Section 33-10-219, MCA, is amended to read:

"33-10-219. Impaired insurer -- association's powers prior to liquidation. ~~(1)~~ If ~~a domestic~~ an insurer is an impaired insurer, the association may, prior to an order of liquidation or rehabilitation and subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer and approved

by the impaired insurer and the commissioner:

~~(a)~~(1) guarantee or reinsure or cause to be guaranteed, assumed, or reinsured all the covered policies of the impaired insurer;

~~(b)~~(2) provide such moneys, pledges, notes, guarantees, or other means as are proper to effectuate ~~subsection (a)~~ this section and assure payment of the contractual obligations of the impaired insurer pending action under subsection ~~(a)~~ (1); and

~~(c)~~(3) loan money to the impaired insurer.

~~(2) If a foreign or alien insurer is an impaired insurer, the association may, prior to an order of liquidation, rehabilitation, or supervision, with respect to the covered policies of residents and subject to any conditions imposed by the association other than those which impair the contractual obligations of the impaired insurer and approved by the impaired insurer and the commissioner:~~

~~(a) guarantee or reinsure or cause to be guaranteed, assumed, or reinsured the impaired insurer's covered policies of residents;~~

~~(b) provide such moneys, pledges, notes, guarantees, or other means as are proper to effectuate subsection (a) and assure payment of the impaired insurer's contractual obligations to residents pending action under subsection (a);~~

~~(c)--loan-money-to-the-impaired-insurer.~~"

Section 4. Section 33-10-220, MCA, is amended to read:

"33-10-220. Impaired insurer -- association's powers during liquidation. (1) If ~~a--domestic~~ an insurer is an impaired insurer under an order of liquidation or rehabilitation, the association shall, subject to the approval of the commissioner:

(a) guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of the impaired insurer;

(b) assure payment of the contractual obligations of the impaired insurer; and

(c) provide such moneys, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

~~(2)--If-a-foreign--or--alien--insurer--is--an--impaired insurer--under--an--order-of-liquidation,-rehabilitation,-or supervision,-the-association-shall,-subject-to-the--approval of-the-commissioner:~~

~~(a)--guarantee,--assume,--or--reinsure--or--cause-to-be guaranteed,-assumed,-or-reinsured-the--covered--policies--of residents;~~

~~(b)--assure--payment--of-the-contractual-obligations-of the-impaired-insurer-to-residents;-and~~

~~(c)--provide-such-moneys,-pledges,--notes,--guarantees,~~

~~or-other-means-as-are-reasonably-necessary-to-discharge-such duties.~~

~~(3)~~(2) If the association fails to act within a reasonable period of time, the commissioner shall have the powers and duties of the association under this part with respect to such domestic, foreign, or alien impaired insurer.

~~(4)~~(3) In carrying out its duties under ~~subsections~~ subsection (1) ~~and (2)~~, the association may request that there be imposed policy liens, contract liens, moratoriums on payments, or other similar means; and such liens, moratoriums, or similar means may be imposed if the commissioner:

(a) finds that the amounts which can be assessed under this part are less than the amounts needed to assure full and prompt performance of the impaired insurer's contractual obligations or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, moratoriums, or similar means to be in the public interest; and

(b) approves the specific policy liens, contract liens, moratoriums, or similar means to be used.

~~(5)~~(4) Before being obligated under ~~subsections~~ subsection (1) ~~and--(2)~~, the association may request that

there be imposed temporary moratoriums or liens on payments of cash values and policy loans, and such temporary moratoriums and liens may be imposed if they are approved by the commissioner.

~~(6)~~(5) The association shall have no liability under 33-10-219 or this section for any covered policy of a foreign or alien insurer whose domiciliary jurisdiction or state of entry provides by statute or regulation for residents of this state protection substantially similar to that provided by this part for residents of other states.

(6) The association, subject to the approval of the commissioner, may provide substitute coverage on an individual basis to insureds or may offer to reissue the terminated coverage or issue an alternative policy. Alternative or reissued policies must be offered without requiring evidence of insurability and may not provide for any waiting period or exclusion that would not have applied under the terminated policy."

Section 5. Section 33-10-224, MCA, is amended to read:

"33-10-224. Extent of liability. The contractual obligations of the impaired insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the impaired insurer would have been in the absence of an impairment unless such obligations are reduced as permitted

by 33-10-220~~(4)~~(3), but the association shall have no liability with respect to any portion of a covered policy to the extent that the death benefit coverage on any one life exceeds an aggregate of $300,000."

Section 6. Section 33-10-227, MCA, is amended to read:

"33-10-227. Assessments -- abatement -- basis for ratesetting. (1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such times and for such amounts as the board finds necessary. The board shall collect the assessments after 30 days' written notice to the member insurers before payment is due.

(2) There shall be ~~three~~ two classes of assessments, as follows:

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer.

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under 33-10-219~~(1)~~ and 33-10-220(1) with regard to an impaired domestic insurer.

~~(c)--Class--C--assessments--shall-be-made-to-the-extent necessary--to--carry--out--the--powers--and--duties--of--the association--under-33-10-219(2)-and-33-10-220(2)-with-regard~~

~~to an impaired foreign or alien insurer.~~

(3) (a) The amount of any Class A assessment for each account shall be determined by the board. The amount of any Class B ~~or C~~ assessment shall be divided among the accounts in the proportion that the premiums received by the impaired insurer on the policies covered by each account bear to the premiums received by such insurer on all covered policies.

(b) ~~Class A and Class C~~ Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account bear to such premiums received on business in this state by all assessed member insurers.

~~(c) Class B assessments for each account shall be made separately for each state in which the impaired domestic insurer was authorized to transact insurance at any time in the proportion that the premiums received on business in such state by the impaired insurer on policies covered by such account bear to such premiums received in all such states by the impaired insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account bear to such premiums received on business in each state by all assessed member insurers.~~

~~(d)~~(c) Assessments for funds to meet the requirements of the association with respect to an impaired insurer shall not be made until necessary to implement the purposes of this part. Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed 2% of such insurer's premiums in this state on the policies covered by the account.

(5) In the event an assessment against a member insurer is abated or deferred, in whole or in part, because of the limitations set forth in subsection (4), the amount by which such assessment is abated or deferred shall be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount

sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this part.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that amount, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

(8) The association shall issue to each insurer paying an assessment under this part a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue.

A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve."

Section 7. Section 33-10-230, MCA, is amended to read:

"33-10-230. Tax -- writeoffs of certificates of contribution. (1) Unless a longer period has been allowed by the commissioner, a member insurer shall at its option have the right to show a certificate of contribution for a Class B assessment only as an asset in the form approved by the commissioner pursuant to 33-10-227(8), at percentages of the original face amount approved by the commissioner, for calendar years as follows:

(a) 100% for calendar year of issuance;

(b) 80% for the first calendar year after year of issuance;

(c) 60% for second calendar year after year of issuance;

(d) 40% for third calendar year after year of issuance;

(e) 20% for fourth calendar year after year of issuance.

(2) The insurer may offset the amount written off by it in the calendar year under subsection (1) above against its premium tax liability to this state accrued with respect

to business transacted in such year.

(3) Any sums acquired by refund, pursuant to 33-10-227(6), from the association which have therefore been written off by contributing insurers and offset against premium taxes as provided in subsection (2) above and are not then needed for purposes for this part shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of this state."

NEW SECTION. Section 8. Extension of authority. Any existing authority of the commissioner of insurance to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 9. Applicability. Sections 1 through 7 apply to all occurrences that result from legal actions instituted after the effective date of this act.

NEW SECTION. Section 10. Effective date. This act is effective on passage and approval.

-End-

stated in the statute would have to be provided to the employee.

Rep. Simon asked whether the state group health insurance plan offered this coverage now or would this expand the coverage. Steve Waldron replied that the current state plan has to meet the mandated mental health and alcohol benefits that are in the law as do all group plans, and they are meeting them currently.

CLOSING

Rep. Hansen said that the bill provides that the payments be the same for mental illness as they are for other physical illnesses. She commented that it was important that equity was provided in the area of mental illness.

HOUSE BILL NO. 806 - Revising Montana Life and Health Guaranty Act, sponsored by Rep. Bob Pavlovich, House District 70, Butte. Rep. Pavlovich stated that this bill is an act to generally revise the laws relating to the Montana Life and Health Insurance Guaranty Association Act.

PROPONENTS

Mike Mulroney. Mr. Mulroney stated he supported the bill.

Robert Throssell, chief legal counsel from the State Auditors Office. Mr. Throssell submitted written testimony. Exhibit No. 4.

HOUSE BILL NO. 789 - Revises Definition of Hazardous Waste Management Facility, sponsored by Rep. Hal Harper, District 44, Helena. Rep. Harper stated the act deals with defining and licensing of a transfer facility, and that SRM was already operating. He said the concern of the people translates into business risk. He said the way to reduce the risk is to get the public involved.

PROPONENTS

Roger Thorvilson, Solid and Hazardous Waste Bureau, Department of Health and Environmental Sciences. Mr. Thorvilson stated that they had a lot of input about concerns relating to the transportation activities as defined in the bill. He said that there is no existing approval or permitting and licensing process for this kind of hazardous waste operation and the transporter can establish this without having to go through any required public input or approval process and be in business without setting up a system to deal with concerns and potential problems. He said the department would be able to accommodate the rule making requirements and

Rep. Brandewie moved the proposed amendments. The motion carried unanimously. See Standing Committee Report.

Rep. Simon moved the amendment to insert "unavailable" or "unattainable at reasonable cost" in sub. 4, page 3, line 22, 23. The motion failed.

Rep. Simon commented that there was a limit as to how much money could be put away since the bill says five times the gross sales of a small business, otherwise it would be considered tax avoidance.

Rep. Brandewie moved that House Bill No. 817 DO PASS AS AMENDED. The motion carried with Rep. Thomas opposed.

ACTION ON HOUSE BILL NO. 796

Rep. Driscoll moved that House Bill No. 796 DO PASS.

Rep. Simon asked about the legality of allowing no more than five bingo machines if someone already had 35-40 machines. He said this takes away a person's property. He recommended a license fee so the economics would not be there for them to have the machines.

The motion was voted on and carried with Reps. Swysgood and Jones opposed.

ACTION ON HOUSE BILL NO. 806

Rep. Pavlovich moved that House Bill No. 806 DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 801

Rep. Hansen moved that House Bill No. 881 DO PASS.

Rep. Hansen moved the amendments to reinsert "the private facilities" in the bill. The motion carried with Rep. Cohen opposed.

Rep. Wallin commented that the bill was not needed.

Rep. Hansen commented that the bill updated the information to comply with the federal definitions.

Rep. Swysgood moved that House Bill No. 801 BE TABLED. The motion carried with Reps. Hansen, Nisbet, Brown, McCormick opposed.

ACTION ON HOUSE BILL NO. 799

Rep. Driscoll moved that House Bill No. 799 DO NOT PASS.

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

STANDING COMMITTEE REPORT

February 19 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 306

☒ do pass ☐ be concurred in ☐ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

REP. LEO KITSELMAN Chairman

FIRST reading copy (WHITE color)

FINAL COMMITTEE REPORT OF REFERRED BILLS
COMMITTEE--(S) BUSINESS & INDUSTRY

RUN TIME 08:32
RUN DATE.... 04/22/87

CHAIRMAN--SEN. ALLEN C. KOLSTAD
NORMAL SCHEDULE==> SITE: ROOM 410 DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-CAROLYN LINDEN

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0771 GLASER, BILL	2/23	3/17	3/17/87 REVISE SURPLUS LINES INSURANCE LAWS	CONCUR AS AMENDED		3/17/87
HB0796 DRISCOLL, JERRY	3/02		LIMITING HOURS OF PLAY AND NUMBERS OF BINGO MACHINES; CAPPING LICENSE FEES		STATE ADMIN.	
HB0803 CAMPBELL, BUD	3/02	3/09	3/9/87; 3/10/87 REVISE INSURANCE AGENTS LICENSING LAWS	CONCUR		3/10/87
HB0806 PAVLOVICH, BOB	3/02	3/09	3/9/87; 3/10/87 REVISING MONTANA LIFE AND HEALTH GUARANTY ACT	CONCUR AS AMENDED	BUSINESS & LABOR	3/10/87
HB0806 PAVLOVICH, BOB	3/17	3/18	3/18/87; 3/23/87; 3/26/87 REVISING MONTANA LIFE AND HEALTH GUARANTY ACT	CONCUR AS AMENDED		3/26/87
HB0817 GLASER, BILL	3/13	3/20	3/20/87; 3/27/87 INDEPENDENT LIABILITY FUNDS FOR SMALL BUSINESS	CONCUR		3/27/87
HB0823 SQUIRES, CAROLYN	3/02	3/12	3/12/83; 3/16/87 REVISE LAWS RELATING TO DISABILITY INSURANCE	CONCUR AS AMENDED		3/16/87
HB0849 QUILICI, JOE	4/03	4/09	4/9/87 FUNDING FOR MONTANA STATEHOOD CENTENNIAL OFFICE	CONCUR		4/9/87
HB0862 WINSLOW, CAL	4/03	4/08	HEARING CANCELED MONTANA PROGRESSIVE DEVELOPMENT ACT		FINANCE & CLAIMS	
HB0863 WALLIN, NORM	3/25	3/31	3/31/87; 4/8/87; 4/9/87 NET INCOME TAX ON VIDEO POKER AND KENO MACHINES	CONCUR AS AMENDED		4/8/87
HB0905 WINSLOW, CAL	4/03	4/08	4/8/87; 4/9/87 PROMOTE ECONOMIC DEVELOPMENT THROUGH INVESTMENT IN NEW TECHNOLOGY	TABLED		TABLED 4/9/87

CONSIDERATION OF HOUSE BILL NO. 806: Rep. Bob Pavlovich, House District 70, Butte-Silver Bow, sponsor, said the bill generally revises the laws relating to the Montana life and health insurance guaranty association. The association is a nonprofit legal entity comprised of health and life insurers authorized to do business in the state. The association is organized to protect policyholders and insureds against the insurer's failure to meet contractual obligations because of impairment. He said the bill was a committee bill and was drafted in the Business and Labor committee in the House. It was requested by the Montana Life and Health Guaranty Association. He said he had one amendment on page 8, line 22; eliminate the word "domestic"

PROPONENTS: Kathy Irigoin, State Auditor and Commissioner of Insurance Office, presented written testimony regarding HB 806. (EXHIBIT 4)

Mike Mulroney, Montana Life and Health Insurance Guaranty Association attorney, said he would answer any questions of the committee and they supported HB 806 with the change mentioned by Ms. Irigoin with regard to the word "domestic".

Tom Hopgood, representing the American Council of Life Insurance and the Health Insurance Association of America, submitted technical amendments and briefly explained them to the committee. (EXHIBIT 5) He asked the committee to give it a do pass.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 806: Chairman Kolstad asked for questions from the committee.

Sen. Walker questioned Rep. Pavolovich about the amendments, however, he said he had not had time to go over them and in talking to Ms. Irigoin and Mr. Mulroney they objected to the amendments. (This refers to the amendments in Exhibit 5.)

Chairman Kolstad asked Mr. Mulroney to address the objection to the amendments. He replied that they had done a great deal of work on the bill before it was presented in the House and they had also discussed it with the insurance commissioner. He said they were satisfied with the bill; they looked at the model act before this and they just tried to simplify it. He said he was convinced the bill did the job they intended it to do. Ms. Irigoin also concurred with Mr. Mulroney on the amendments.

There being no further questions, Rep. Pavlovich closed on HB 806.

CONSIDERATION OF HOUSE BILL NO. 417: Rep. Jan Brown, House District 46, Helena, sponsor, stated that the bill revises the provisions of law concerning preferences for resident bidders. It allows a 5% preference to a resident bidder selling Montana

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3/9/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS			✓

Each day attach to minutes.

DATE 3/9/87

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Tom Kelly	Milk Industry - Processors	HB417	✓	
Mike McGivney	Mont. Life & Health Ins.	HB800	✓	
Pat Melby	Columbia Paint Co.	HB417	✓	
Ralph Trocsak	Governor's Council on Econ Dev	HB240	✓	
Thomas A. Egan	Century Agency	HB240	✓	
Roger McGlenn	Independent Ins. Agents Assoc of Mt	HB-240 HB-803	✓	
William H. Francis				
Jim Lamson				
Sandy Corey	State Farm + Nat. Assoc of Independent Insurers	HB240	✓	
Tom Hopgood	American Council of Life Ins. Health Ins. Assoc of Amer	HB803	✓	
Tim Robinson	Mont. Liability Coalition	HB-240	✓	
John C. Hoyt	Hoyt & Bennett	HB-240		✓
Allen H. Bibl	Montana School Supply Co	HB417		
Jack D. Johnson	Johnson Conlin & Assoc	HB 417	--	
Kathy Irigoin	State Auditor's office	HB240 HB803 HB824	✓	
Bryan Enderle	Missoula Chamber	HB 243	✓	
Eric Schwimmer	Cascade Bank Co	HB 417		
James Hodges	Columbia Chem.	HB 417	✓	

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3-9-87
BILL NO. HB 806

WRITTEN TESTIMONY OF STATE AUDITOR'S OFFICE
HOUSE BILL 806
March 9, 1987

The State Auditor and Commissioner of Insurance supports House Bill 806. The proposed changes to the Montana Life and Health Insurance Guaranty Association Act are in line with the model Life and Health Guaranty Fund Act of the National Association of Insurance Commissioners. Those that do not come from the model act, particularly Section 1 of the bill, recognize the unique situation Montana faces by not having employees of insurance companies serve on the Montana Life and Health Guaranty Fund board.

Section 1 of House Bill 806 adopts the language that other states use to define the extent of coverage provided by the guaranty fund. Under House Bill 806, the Montana Life and Health Guaranty Fund would only be responsible for residents of this state (page 1, lines 22-24). In all pending actions, and particularly the Life of Montana situation, coverage would still be provided under existing law.

Section 2 of House Bill 806 allows for compensation of the board of directors of the Montana Life and Health Guaranty Fund, who are not full-time employees of an insurance company. Montana's board is unique in that it is made up entirely of insurance agents (page 3, lines 11-18). As agents, they do not receive compensation for serving on the board. The compensation provision of the bill recognizes the substantial commitment of time and service that board members give the state and its citizens.

Sections 3 (page 3 line 19 through line 1, page 5) and 4 (page 5, line 2 through line 18, page 7) of House Bill 806 further implement the change in the scope of coverage in Section 1. By limiting coverage to policies of Montana residents, it is no longer necessary to distinguish between domestic and foreign insurance companies. The policies of only Montana residents are covered regardless of the location of the insurance company issuing those policies.

Section 4 of House Bill 806 includes a new protection that the Life and Health Guaranty Fund may offer Montana residents. The guaranty fund, with the approval of the Commissioner of Insurance, may offer replacement or substitute policies to residents if the company they were previously insured with fails (page 7, lines 11-18). This is an option that could benefit a Montana resident depending on his or her circumstances when the original insurance company fails.

The reference to subsection (4) of 33-10-220, MCA, is deleted in Section 5 of House Bill 806 because of the deletions in Section 4 of the bill (page 8, line 1).

Section 6 of House Bill 806 reflects changes necessary because Section 1 changes the scope of the Montana Life and Health Guaranty Fund Act and Sections 3 and 4 eliminate the distinction between domestic and foreign insurers. By creating only one type of coverage there is no longer a need for three classes of assessments. The Class A assessment remains for general administrative expenses. The Class B assessment becomes the only assessment necessary to pay on covered claims of Montana residents.

Section 7 of House Bill 806 establishes a premium tax off-set of the assessments made for Class B. If House Bill 806 were to pass, only those assessments directly related to paying on covered policies of Montana residents would qualify for the premium tax off-set.

Section 8 of House Bill 806 extends rulemaking authority to include the changes incorporated in this bill. Section 9 establishes an applicability date so that any action filed before the effective date of this act will not be governed by these changes. Since Montana and other states have made decisions and assurances based on the current status of the law, those actions will be governed by existing law.

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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 5
DATE 3/9/87
BILL NO. HB806

HB 806

Amendments Proposed by the
Health Insurance Association
of America (HIAA)

1. Title, line 7.
Following: "SECTIONS"
Insert: "33-10-201,"

2. Page 1.
Following: line 12
Insert: Section 1. Section 33-10-201, MCA, is amended to read:

"33-10-201. Short title, purpose, scope, and construction. (1) This part shall be known and may be cited as the "Montana Life and Health Insurance Guaranty Association Act".

(2) The purpose of this part is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts.

(3) To provide this protection:

(a) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

(b) members of the association are subject to assessment to provide funds to carry out the purpose of this part; and

(c) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

(4) This part shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this state at any time.

(5) This part shall provide coverage for covered policies:

(a) to persons who are owners of or certificate holders under such covered policies, and who

(i) are residents of this state, or

(ii) are not residents of this state, if:

(A) the insurers which issued such policies are domiciled in this state,

(B) such insurers never held a license or certificate of authority in the state in which such persons reside,

(C) such states have associations similar to the association created by this Act, and

(D) such persons are not eligible for coverage by such associations;

(b) to persons who, regardless of where they reside (except for non-resident certificate holders under group policies or contracts), are the beneficiaries, assignees or payees of the persons covered under subparagraph (a).

(6) This part shall not apply to:

(a) any such policies or contracts or any part of such policies or contracts under which the risk is borne by the policyholder;

(b) any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued.

(7) This part shall be liberally construed to effect the purpose under subsections (2) and (3) which shall constitute an aid and guide to interpretation.

(8) Nothing in this part shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with assessment liability."

Renumber: all subsequent sections

3. Page 1, line 22.
Strike: "held by a resident of this state"

4. Page 1, line 24.
Following: "(4)"
Insert: ","
Strike: "and"

Following: "(5)"
Insert: ", and (6)"

5. Page 3, line 13.
Following: "and"
Insert: "the representatives of"

Alternative A:
6. Page 7, line 11 through line 18.
Strike: subsection (6) in its entirety.

Alternative B:
6. Page 7, line 11 through line 18.
Strike subsection (6) in its entirety.

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Insert:

"(6) When proceeding under Section 33-10-220, the Association may, with respect to life and health insurance policies

(a) Assure payment of benefits for premiums identical to the premiums and benefits (except for terms of conversion and renewability) that would have been payable under the policies of the insolvent insurer, for claims incurred

(i) with respect to group policies, not later than the earlier of the next renewal date under such policies or contracts or 45 days, but in no event less than 30 days, after the date on which the Association becomes obligated with respect to such policies;

(ii) with respect to individual policies, not later than the earlier of the next renewal date (if any) under such policies or one year, but in no event less than 30 days, from the date on which the Association becomes obligated with respect to such policies;

(b) make diligent efforts to provide all known insureds or group policyholder with respect to group policies 30 days notice of the termination of the benefits provided; and

(c) with respect to individual policies, make available to each known insured, or owner if other than the insured, and with respect to an individual formerly insured under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of paragraph (4), if the insureds had a right under law or the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(d)(i) In providing the substitute coverage required under paragraph (3), the Association may offer either to reissue the terminated coverage or to issue an alternative policy.

(ii) Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(iii) The Association may reinsure any alternative or reissued policy.

(e)(i) Alternative policies adopted by the Association shall be subject to the approval of the

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Commissioner. The Association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(ii) Alternative policies shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The Association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(iii) Any alternative policy issued by the Association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the Association.

(f) If the Association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the Association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the Commissioner or by a court of competent jurisdiction.

(g) The Association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date such coverage or policy is replaced by another similar policy by the policyholder, the insured, or the Association."

7. Page 8, line 22.
Strike: "domestic"

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DISCUSSION OF HOUSE BILL NO. 401: There were no questions regarding the bill.

EXECUTIVE ACTION ON HOUSE BILL NO. 401:

Sen. Darryl Meyer moved that House Bill 401 BE CONCURRED IN. Sen. Walker Seconded the MOTION and it PASSED UNANIMOUSLY.

DISCUSSION OF HOUSE BILL NO. 240: Sen. Meyer presented proposed amendments to HB 240 at the request of Mr. Carl England. Ms. McCue explained that all of the amendments were on page five and have to do with which of those provisions of 33-18-201, if violated by the insurer, would cause you to have an independent cause of action. The amendments would add subsections seven and eight. Chairman Kolstad asked Mr. John Hoyt if he supported the proposed amendments and he answered affirmatively. Sen. Neuman stated that he was not in agreement with them and now felt that if subsections seven and eight were included everything would be back to its original form before the bill. Sen. Williams asked if Rep. Thomas was aware of the proposed amendments and Mr. Hoyt said he didn't know. Chairman Kolstad stated that the committee would hold the bill for further study. (EXHIBIT 5)

DISPOSITION OF HOUSE BILL NO. 806: Sen. Mike Walker MOVED that House Bill 806 BE AMENDED. The MOTION was Seconded by Sen. Darryl Meyer and PASSED UNANIMOUSLY.

A MOTION by Sen. Darryl Meyer that House Bill 806 BE CONCURRED IN AS AMENDED was Seconded by Sen. Mike Walker. It PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 803: Sen. Mike Walker MOVED that the STATEMENT OF INTENT BE ADOPTED. The MOTION was Seconded by Sen. Harry McLane. It PASSED UNANIMOUSLY.

A MOTION by Sen. McLane, Seconded by Sen. Walker that House Bill 803 BE CONCURRED IN PASSED with Sen. Neuman voting "no".

Chairman Kolstad announced that House Bill 417 would be held in the committee until further research and study was completed on the bill.

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3/10/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 10 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 806

Third reading copy (blue color)

REVISING MONTANA LIFE AND HEALTH GUARANTY ACT

PAVLOVICH (Meyer)

Respectfully report as follows: That HOUSE BILL No. 806

be amended as follows:

1. Page 3, line 22.
Strike: "domestic"

AND AS AMENDED,
BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

ALLEN C. KOLSTAD, Chairman.